

Land rights and agricultural productivity

April 2012

Introduction

Property rights to land represent the key institutional asset on which rural people build their livelihoods. In fact, in many countries, landlessness is the best predictor of poverty. The nature of farmers' property rights to land substantially impacts their willingness and ability to adopt productivity-enhancing inputs and investments.

While strong and secure land rights are the norm for farmers in the developed world, this is not the case for much of the developing world. Secure rights to land refer to rights that are clearly defined, long-term, enforceable, appropriately transferable, and socially and legally legitimate.¹ Unfortunately, a substantial portion of smallholders in developing countries are missing at least one of these key components of strong land rights. Women farmers fare even worse. And, the most marginalized families in the agricultural sector—landless farm laborers—face even greater challenges.

Without secure land rights, the rural poor often have few options for using land to improve their livelihoods. Fortunately, proven productivity- and welfare-enhancing solutions do exist. And many international development organizations are well positioned to facilitate and support those solutions.

Land rights and smallholder vulnerability

Agricultural smallholders the world over constitute a significant portion of the poor, and their poverty and productivity is intimately tied to the nature of their land property rights:

Although many of the poor in the developing world are landless, most of the rural poor have some access to land. These "landed poor" remain poor not simply because their holdings are small, but also because their land rights are weak and

insecure. *The uncertainty they experience undermines their incentives to make long-term investments in their land or use it sustainably.* Their land has limited economic value because it cannot legally be transferred.²

People sometimes think that all smallholders cultivate land they own, and that all "owners" have clear rights to the land they use. However, land rights systems are complex, dynamic and based on multiple types of property interests. These rights form a continuum, and it is not simply a matter of having secure ownership or not. In fact, many smallholders are tenants who cultivate land owned by others, while other smallholders have only tenuous rights to land that the government regards as publicly owned.

Unfortunately, many governmental and donor programs are implemented without appreciating the critical need to understand who has what rights to the land involved in the program. As a result, such programs often inadvertently *reduce* the tenure security of smallholders and risk making them even poorer. The least powerful smallholders tend to be the most vulnerable.

The global land rush in developing countries is a case in point. While having great potential for improving agricultural production through the much needed introduction of capital, technology and

improved business models, the rush appears presently to be displacing large numbers of smallholders who lack secure rights. In fact, as agricultural land becomes more productive and thus more attractive to those with power and greater resources, smallholders with insecure property rights may be at even greater risk of losing their land. Increasing the agricultural potential of a land resource is likely to lead to elite capture of that resource—if land property rights of the poor are not secure.

Africa | In 2009, an estimated 428 million rural poor lived in sub-Saharan Africa. That number serves as a guide to the minimum number of customary landholders in the region without legal security in their land.³ Individuals, families and communities who are not yet recognized as lawful owners of such lands run the continuing and worsening risk of losing their land to others.⁴

Much land remains untitled. Experts estimate, for example, that as little as 15% of land in Kenya and Uganda is formally titled.⁵ In Mali, only a small fraction of smallholders have title to land they cultivate.⁶

Benefits of secure land rights

Secure land rights are a foundational building block for agricultural productivity, as well as for economic and social empowerment of producer families. Smallholders who have more secure property rights are more likely to make productivity-enhancing investments since they are more confident they can recoup their investments over the medium and long term. This is often a blind spot for many agricultural experts in developed economies where secure land rights are typically a given.

This relationship, which makes intuitive sense, is also supported by numerous studies.⁷ In one study from 2003, researchers used a national data set in Ethiopia to examine the relationship between tenure insecurity and long-term investments such as terracing. They found that farmers are much less likely to make such investments if they cannot transfer their rights easily and if they perceive that the government might take their land to redistribute to others. The authors conclude that "a household with fully secure and transferable land is estimated to be 59.8% more likely to invest in terracing than

one who expects a redistribution within the village during the next 5 years."⁸

In India, a group of researchers studied the effects of a widely implemented program in West Bengal to give sharecroppers secure long-term rights to land and a minimum share of production. They found that the greater tenure security enjoyed by the protected tenants explains around 28% of growth in agricultural productivity during 1979 – 1993.⁹

African studies also find a strong relationship between tenure security and agricultural investments. A study of farming communities in western Gambia, for example, found secure land tenure "to positively and significantly affect the propensity to make fixed investments."¹⁰ The same study concluded that land improvements were positively and significantly related to higher farm yields.¹¹

India | India truly is the land of smallholder farmers. According to 2003 national household surveys, 79% of rural households owned less than 1 hectare and 60% owned less than 0.41 hectares.¹² A large proportion of landholders lack land documentation.

In the Indian state of Odisha, for example, a survey of 1,059 villages revealed that 50% of village households did not have title to land they lived on,¹³ while in Andhra Pradesh, a government inventory found more than 1.9 million rural households—42% of all rural lower caste and tribal households—have insecure land rights.¹⁴

In addition, a great deal of farmland is held by informal tenants who cannot legally rent the land they cultivate. According to national estimates, 1,315,300 households in Bihar and 840,000 households in Odisha possess agricultural land under unrecorded leases.¹⁵ These tenant farmers operate in an informal economy in which they cannot access either credit or government services available to land owners.

Because the rural poor typically have weaker property rights than any other segment of society, efforts that improve the security of those rights—which in turn create incentives for productivity-enhancing investments—are fundamental mechanisms for reducing poverty.¹⁶

How to improve land tenure security

Land tenure issues are complex, but there are many ways in which smallholders can realize stronger property rights to the land they cultivate. Solutions are context specific, and will depend on existing property rights norms and sources of authority, including statutory rules and local customs. Research is crucial for analyzing the problems and identifying solutions. In many settings, policy change is needed. In others, favorable rules may exist for recognizing smallholder property rights, but proper implementation is lacking and must be facilitated.

Oftentimes, relatively minor interventions can make those rights real. For example, programs can build awareness of farmers (especially women) or equip educated youth to work as community-based paralegals to help farmers navigate the government machinery to obtain their titles. Solutions may also include streamlining registration processes, increasing transparency in property rights registration, making fees more reasonable, and informing smallholders of their legal rights or supplementing the capacity of local land administrators to recognize property rights.

Getting women's land rights right

Women are increasingly responsible for agricultural production throughout the developing world. Women comprise as much as 50% of the agricultural labor force in sub-Saharan Africa,¹⁷ where an estimated 31% of all households are headed by women.¹⁸ The close relationship between women and agriculture means that insecure land rights pose a special threat to the well-being of rural women, and the children who depend on them.

Even when a smallholder household obtains more secure land rights, women within the household very often do not have secure rights.¹⁹ This disenfranchisement can have generational repercussions since women who have secure land rights are more likely to invest in their families by spending more on household food and education.²⁰

Solutions exist even for completely landless farm laborers whose greatest need is accessing a small parcel of land for residential and garden purposes. Micro-plot programs for women farm laborers in

India are showing great promise for improving social and economic outcomes, including nutrition. These could be widely replicated in India and beyond.

Governments are key players in these processes, and are often receptive to better policies and well-designed programs for delivering more secure property rights.

Broad and lasting impact

Agricultural planners who place a land rights lens on agricultural development work could realize large dividends not only in terms of increased production, but also in the form of increased engagement by smallholders with other rural development initiatives. For example, smallholders who have a secure footing on their land will be better able to access and repay loans and more likely to invest in permanent improvements to household water and sanitation systems. Secure land rights provide a lasting impact that generates ongoing benefits for future generations.

To address smallholder property issues, international development organizations can:

1. Learn more about specific land tenure issues confronted by smallholders in focus countries through research and add land tenure experts with field experience to agricultural development teams.
2. Examine agricultural development projects through a land tenure lens to identify land tenure risks and opportunities. Consider novel solutions, such as community-based paralegals to help smallholders understand how to claim property rights and help local administrators process claims.
3. Gather information about the impacts of secure (or insecure) tenure on smallholders in places where the organization implements its agricultural strategy.
4. Work with policy makers, land administrators, and other partners to explore ways of increasing tenure security of smallholders in communities where the organization works.
5. When research points clearly to policy implications, advocate for land tenure policy changes that align with the organization's agricultural development goals.

¹ "Land tenure security exists when an individual or group is confident that they have rights to a piece of land on a long-term basis, protected from dispossession by outside sources, and with the ability to reap the benefits of labor and capital invested in the land, whether through direct use or upon transfer to another holder." R. Prosterman, R. Mitchell & T. Hanstad, ONE BILLION RISING: LAW, LAND AND THE ALLEVIATION OF GLOBAL POVERTY 34 (Leiden U. Press 2009), adapting a definition from F. Place, et al., *Land Tenure Security and Agricultural Performance in Africa: Overview of Research Methodology*, in J.W. Bruce & S.E. Migot-Adholla, eds., SEARCHING FOR LAND TENURE SECURITY IN AFRICA 15, 19 (Kendall-Hunt 1994).

² J.W. Bruce, *Collective Action and Property Rights for Sustainable Development: Strengthening Property Rights for the Poor*, IFPRI / CAPRI Focus Brief 16 (Feb. 2004) (emphasis added).

³ L. Alden Wily, *Customary Land Tenure in the Modern World*, Brief No. 1 in the series: Rights to Resources in Crisis: Reviewing the Fate of Customary Tenure in Africa 2 (Jan. 2012).

⁴ L. Alden Wily, *The Status of Customary Rights in Africa Today*, Brief No. 4 in the series: Rights to Resources in Crisis: Reviewing the Fate of Customary Tenure in Africa 1 (Jan. 2012).

⁵ C. Augustinus & K. Deininger, *Innovations in Land Tenure, Reform & Registration in Africa*, Paper presented at conference on Land Rights for African Development: From Knowledge to Action, Nairobi, Oct. 31 – Nov. 3, 2005, at 3.

⁶ In his study of the Malian district of Kati, Djiré found that only 1.49% of titles had been issued to small farmers. M. Djiré, *Immatriculation et appropriation foncière dans une zone péri-urbaine du Mali: Les avatars d'une procédure (nécessaire ?) [Land registration and appropriation in a Malian peri-urban area: The avatars of a (necessary?) procedure]*, Colloque international "Les frontières de la question foncière – At the frontier of land issues," Montpellier, Table 4 (2006), available at http://www.mpl.ird.fr/colloque_foncier/Communications/PDF/Djire.pdf.

⁷ See T. Besley, *Property Rights and Investment Incentives: Theory and Evidence from Ghana*, 103(5) JOURNAL OF POLITICAL ECONOMY 903 (1995); A.J. Field, E. Field & M. Torero, *Property Rights and Crop Choice in Rural Peru, 1994 – 2004*, MTID Discussion Paper No. 100 (IFPRI Nov. 2006); K. Deininger, D. Ali & T. Yamano, *Legal Knowledge and Economic Development: The Case of Land Rights in Uganda*, Paper presented at the International Association of Agricultural Economists Conference, Gold Coast, Australia, Aug. 12-18, 2006, available at <http://ageconsearch.umn.edu/bitstream/25431/1/ip06de04.pdf>. See also K. DEININGER, LAND POLICIES FOR GROWTH AND POVERTY REDUCTION (World Bank 2003).

⁸ K. Deininger, S. Jin, B. Adenew, S. Gebre-Selassie & B. Nega, *Tenure Security and Land-Related Investment: Evidence from Ethiopia*, World Bank Development Working Group Policy Research Working Paper No. 2991, at 16 (March 2003).

⁹ A.V. Banerjee, P.J. Gertler & M. Ghatak, *Empowerment and Efficiency: Tenancy Reform in West Bengal*, 110(2) JOURNAL OF POLITICAL ECONOMY 239 (2002).

¹⁰ J. Hayes, M. Roth & L. Zepeda, *Tenure Security, Investment and Productivity in Gambian Agriculture: A Generalized Profit Analysis*, 79(2) AMERICAN JOURNAL OF AGRICULTURAL ECONOMICS 369, 375 (1997).

¹¹ Id. at 380.

¹² National Sample Survey Organization, Household Ownership Holdings in India, 2003, at 12, Statement 3.

¹³ Odisha Tribal Empowerment and Livelihoods Programme, unpublished 2011 village survey data on file with Landesa.

¹⁴ Society for the Eradication of Rural Poverty, unpublished 2011 inventory data on file with Landesa.

¹⁵ National Sample Survey Organization, NSS Census of Land Holdings, 2003, at Table 11R.

¹⁶ See M. Carter, *Designing land and property rights reform for poverty alleviation and food security*, in Land Reform, Land Settlement and Cooperatives 45 (FAO 2003), available at: <ftp://ftp.fao.org/docrep/fao/006/j0415T/j0415T00.pdf>

¹⁷ FAO, *The state of food and agriculture 2010-11: Women in agriculture—closing the gender gap for development 5* (2011), available at <http://www.fao.org/docrep/013/i2050e/i2050e.pdf>.

¹⁸ FAO, *Gender and Food Security: Synthesis report of regional documents: Africa, Asia and Pacific, Europe, Near East and Latin America* (undated), available at <http://www.fao.org/docrep/X0198E/X0198E00.htm>.

¹⁹ See generally R. Giovarelli, *Gender and land tenure reform*, in R. Prosterman, R. Mitchell & T. Hanstad, ONE BILLION RISING: LAW, LAND AND THE ALLEVIATION OF GLOBAL POVERTY 195 (Leiden U. Press 2009); R. Giovarelli & B. Wamalwa, *Land tenure, property rights and gender: Challenges and approaches for strengthening women's land tenure and property rights*, USAID Property Rights and Resource Governance Briefing Paper No. 7 (Jan. 2011).

²⁰ E. Katz & J.S. Chamorro, *Gender, land rights and the household economy in rural Nicaragua and Honduras*, paper prepared for the Regional Workshop on Land Issues in Latin America and the Caribbean (USAID 2002). See also A.R. Quisumbing & J.A. Maluccio, *Resources at marriage and intrahousehold allocation: Evidence from Bangladesh, Ethiopia, Indonesia and South Africa*, 65(3) OXFORD BULLETIN OF ECONOMICS AND STATISTICS 283 (2002).